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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,445	04/12/2004	David S. Breed	ITI-002	1430
22846	7590	10/05/2005	EXAMINER	
BRIAN ROFFE, ESQ 11 SUNRISE PLAZA, SUITE 303 VALLEY STREAM, NY 11580-6170			ZANELLI, MICHAEL J	
			ART UNIT	PAPER NUMBER

3661

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/822,445

Applicant(s)

BREED ET AL.

Examiner

Michael J. Zanelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5 and 6 is/are rejected.
- 7) ☒ Claim(s) 2 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/14/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The application filed 4/12/04 has been examined. Claims 1-6 are pending. As can best be determined after reviewing the numerous applications from which priority is claimed, the subject matter of at least claim 1 is entitled to only the 4/12/04 filing date. The previous applications do not disclose a processor including an algorithm arranged to receive data from an inertial reference unit and control the throttle, brakes and steering to prevent rollover. If this is incorrect, applicant is requested to specifically identify the prior application(s) and passage(s) which support the claim language.

2. The disclosure is objected to because of the following informalities:

A. The Continuation data on page 1 does not appear to be accurate. It is believed that paragraph C) should include the phrase "a continuation-in-part of" (see for example A and B).

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

4. The IDS filed 1/14/05 has been considered.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Breed (US 2001/0002451).

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A. As per claims 1, 5 and 6, Breed discloses an apparatus for sensing a potential rollover of a vehicle comprising an inertial reference unit including three accelerometers and three gyroscopes [0190, 0192] for measuring acceleration and rotation about the vehicle's axis, a central control module [0192] and vehicle control devices for controlling steering, braking and throttle [0196].

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Breed in view of Peterson et al. (5,332,180).

A. As per claim 3, the claimed invention differs in that a Kalman filter is used for optimizing the inertial reference unit output(s) (i.e., accelerometers/gyros). However, it was extremely well-known in the vehicle control art to utilize the Kalman filter to optimize sensed vehicle motion parameters (see as exemplary Peterson et al.). One of

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ordinary skill in the art would have found it obvious to utilize a Kalman filter to optimize the sensed vehicle motion parameters because it would have provided a more accurate determination of a potential rollover condition.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited document is of general interest.

10. Claims 2 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As per claims 2 and 4, the prior art of record does not show or reasonably suggest, in combination with the other claimed subject matter, taking into consideration the vehicle's location and/or roadway information in determining/preventing a rollover condition.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (571) 272-6969.


The examiner can normally be reached on Monday-Thursday 8:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/mjz



MICHAEL J. ZANELLI
PRIMARY EXAMINER